

**Exhibit 1**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

In Re:

DHC REALTY, LLC,

Debtor,

Case No.: 11-30977-hcm

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DHC REALTY, LLC, CHOWAIKI  
HOLDINGS, LLC, EL PASO DHC  
ENTERPRISES, LLC, EL PASO DHC  
ENTERPRISES FAR EAST, LLC,  
EL PASO DHC ENTERPRISES  
WEST, LLC, and DAVID CHOWAIKI

Plaintiffs,

v.

Adversary No.: 12-03012-hcm

ARMANDO ARMENDARIZ,  
YVETTE ARMENDARIZ, and  
HECTOR ARMENDARIZ,

Defendants.

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ARMANDO ARMENDARIZ and  
YVETTE ARMENDARIZ

Counterclaimants

v.

DAVID CHOWAIKI

Counter-Defendant

**AMENDED COUNTERCLAIM OF DEFENDANTS  
ARMANDO ARMENDARIZ AND YVETTE ARMENDARIZ**

TO THE HONORABLE COURT:

Defendants and Counterclaimants Armando Armendariz ("Mr. Armendariz") and Yvette Armendariz ("Mrs. Armendariz"), (collectively "Counterclaimants"), by their undersigned counsel, bring the following Counterclaim against Counter-Defendant David Chowaiki ("Counter-Defendant" or "David Chowaiki"), and in support of thereof show:

**PARTIES**

1. Counterclaimant ARMANDO ARMENDARIZ is an individual who is a resident of El Paso, Texas.
2. Counterclaimant YVETTE ARMENDARIZ is an individual who is a resident of El Paso, Texas.
3. Counter-Defendant DAVID CHOWAIKI ("David Chowaiki") is an individual with his residence in El Paso, Texas, and service of process can be obtained by serving David through his attorney of record Corey W. Haugland, James & Haugland, P.C., P.O. Box 1770, El Paso, Texas 79949.

**FACTUAL BACKGROUND**

1. Mr. Armendariz had been employed as a general manager for various major fast food restaurant chains, including Carl's Jr., Little Caesars, and Boston Market for over fifteen years with great success. Armando was named General Manager of the Year and his restaurant, Restaurant of the Year, two years in a row out of approximately thirty Carl's Jr. restaurants. With Little Caesar's, Armando won district manager of the year. With Mr. Armendariz's extensive experience and success, he can be considered an

expert in managing the operations of restaurants, and specifically, managing food costs and labor costs. Mr. Armendariz has received more than twenty awards from Carl's Jr., his employer prior to Fuddruckers, including numerous awards for Food Costs Percentage to Budget and Labor Costs Percentage to Budget. In summary, Mr. Armendariz is incredibly knowledgeable, talented and successful in managing fast food restaurant operations. His success continued at Fuddruckers.

2. David Chowaiki is part owner, with his brother Hilel, of three Fuddruckers restaurants in El Paso, part of the Fuddruckers restaurant franchise owned by Luby's Fuddruckers Restaurants, LLC. The names of the operating entities of the El Paso Fuddruckers are El Paso DHC Enterprises, LLC ("DHC East"), El Paso DHC Enterprises West LLC ("DHC West"), and El Paso DHC Enterprises Far East, LLC ("DHC Far East") (collectively "El Paso Fuddruckers").

3. David Chowaiki hired Mr. Armendariz as a restaurant manager trainee for DHC East in February 2006. Out of eight managers, Mr. Armendariz was promoted to General Manager and chosen to open the DHC West restaurant location on April 24, 2006. Mr. Armendariz did so well as General Manager that within two months, on June 26, 2006, he was promoted to Director of Operations for both DHC East and DHC West.

4. Mr. Armendariz was informed by David Chowaiki's brother, Hilel Chowaiki, Vice President of El Paso Fuddruckers, that prior to his hiring, DHC East had managed to generate \$1,000,000.00 in its first three months of operations, and yet, Mr. Armendariz was told that in spite of this, the operation had somehow lost money.

5. As Director of Operations, Mr. Armendariz, had a very limited view of the financial outlook as to how the El Paso Fuddruckers operations were doing. However, from his



limited perspective as Director of Operations, the existing locations DHC East and DHC West were doing well, until a third location was opened in 2007.

6. David Chowaiki and his brother Hilel decided to open a third location of FuDDRUCKERS, DHC Far East, which caused a decrease in sales at DHC East and DHC West. The nearby DHC East location, was projected to experience a 5% loss in sales as a result of the opening of DHC Far East. Instead of the expected 5% loss, DHC East experienced a 20-40% loss in sales, upon the opening of DHC Far East in 2007. From Mr. Armendariz's perspective, as Director of Operations, these greater than expected losses, as well as the fact that each of the El Paso FuDDRUCKERS was paying an outrageous \$15,000.00 per month in rent costs, significantly hurt the El Paso FuDDRUCKERS financially. In addition, David Chowaiki had some 4 to 5 percent of monthly sales per store being taken away and put into the entity Chowaiki Holdings, LLC.

7. By 2008, sales were consistently decreasing at El Paso FuDDRUCKERS. In late 2008, David Chowaiki encouraged Mr. Armendariz to reduce management labor due to the continuing decrease in sales. Mr. Armendariz expressed his concern about the continued losses, however he was told by the El Paso FuDDRUCKERS Chief Financial Officer, Jesse Esparza, that as long as the losses were within \$100,000.00, the El Paso FuDDRUCKERS were doing fine. This would seem an impossible situation for any restaurant owner.

8. In July 2009, David Chowaiki was loaned \$150,000.00 and \$50,000.00 by two separate individuals, Robert Malooly and Leo Gus Haddad. These loans were agreed to be paid back at 12% interest, and were secured by Promissory Notes and Deeds of

Trust. David Chowaiki was also loaned \$50,000.00 by his own CFO, Mr. Esparza. David Chowaiki was also loaned another \$25,000.00 and \$50,000.00 by Mr. Haddad. While the reason for David requesting these personal loans is not known at this time, it appears that they were needed due to David Chowaiki's failing businesses.

9. By 2010, not only were the El Paso Fuadruckers allegedly failing, due to David Chowaiki's poor business practices, but David Chowaiki's other business, Basic Sports Apparel, saw its million dollar credit line revoked. As a further sign of David Chowaiki's financial troubles, during Mr. Armendariz's employment with El Paso Fuadruckers, David Chowaiki routinely failed to pay Mr. Armendariz in a timely manner. Payroll checks would be issued to him, but he would be told not to cash them. When Mr. Armendariz was finally told he was able to cash them, sometimes six months later, he would have to be reissued his original paychecks stating that they were for a pay period six months prior. An example of such reissued paychecks is attached hereto as Exhibit 1.

10. It is clear that David Chowaiki's mismanagement and inability to run a successful business drove him eventually to seek money from wherever he could.

11. Eventually David Chowaiki, at this point desperate for money, asked his own employee, Mr. Armendariz, for a personal loan. On March 26, 2010, Mr. Armendariz was approached by David Chowaiki as well as his brother Hilel at their office and they discussed their difficult financial situation with him; they needed a way to recoup the \$1,000,000.00 from the Basic Sports Apparel loan which was revoked. Mr. Armendariz, as a friend of David Chowaiki and his brother Hilel, wanted to help as much as he was able, and offered to loan David Chowaiki \$50,000.00 to be paid back within six months with interest. The \$50,000.00 was part of an \$80,000.00 home equity loan which

Armando had obtained for the purposes of purchasing an investment rental property. On March 29, 2010, Mrs. Armendariz gave David Chowaiki a cashier's check for \$50,000.00, GECU Cashier's Check No. 714810 dated March 29, 2010, made payable to David Chowaiki, a copy of which is attached hereto as Exhibit 2.

12. David Chowaiki's financial difficulties continued. On or about June 3, 2010, David Chowaiki and his brother Hilel mentioned their financial problems to Mr. Armendariz again, and again, Mr. Armendariz offered to loan another \$50,000.00 to David Chowaiki. On June 7, 2010, Armando handed David Chowaiki two more cashier's checks totaling \$50,000.00, both made payable to David Chowaiki: El Paso Employees Federal Credit Union Cashier's Check No. 01 0000634472, dated June 7, 2010, for \$22,777.00, and GECU Cashier's Check No. 726540, dated June 7, 2010, for \$27,223.00. Copies of these cashier's checks are attached hereto as Exhibits 3 and 4.

13. Each of these three cashier's checks were endorsed and cashed by David Chowaiki, and were to be paid back with 12% interest by January of 2011.

14. By March 2012, David Chowaiki had still not paid the \$100,000.00 loan back to Mr. Armendariz, and Mr. Armendariz requested that the interest to date be paid. On March 30, 2012, Mr. Armendariz was given a check from DHC East for the amount of \$14,321.92. In the memo section of the check it stated "Interest to date @ 7.5%/annum-Loan to Fuddruckers". A copy of the DHC East check is attached hereto as Exhibit 5.

15. Mr. Armendariz refused this check from David Chowaiki as not only was the amount of interest, 7.5%, not correct, but the loan which Mrs. Armendariz had made to David Chowaiki was a personal loan, and not a "Loan to Fuddruckers" as stated on the



DHC East check. By attempting to pay back the personal loan from Mrs. Armendariz in this manner, and not honoring the agreement between David Chowaiki and Mr. Armendariz, it became clear to Mr. and Mrs. Armendariz that David Chowaiki had no intention of paying back the loan as agreed. David Chowaiki took advantage of Mr. and Mrs. Armendariz's good will, realizing that they had not taken the steps to secure their personal loan with a promissory note or other means, as had Mr. Malooly and Mr. Haddad who had loaned David Chowaiki \$150,000.00 and \$50,000.00 a year prior. In all, including the loan from Mrs. Armendariz, David Chowaiki has received personal loans totaling \$425,000.00. There may in fact be more which are unknown to Counterclaimants at this time.

16. At this point, David Chowaiki had developed a strategy to deal not only with the \$100,000.00 loan from Mrs. Armendariz, but his dire financial situation with the failing Fuddruckers restaurants as well: Claim that Mr. Armendariz along with Mrs. Armendariz had somehow devised an elaborate plan to steal not just \$100,000.00, but hundreds of thousands of dollars from the El Paso Fuddruckers, declare bankruptcy, and then represent to the Court that the couple was in fact to blame for their dire financial situation. With David Chowaiki's strategy, not only did he seek to avoid paying back the \$100,000.00 loan from Mrs. Armendariz, but also find a way to financially ruin Mr. and Mrs. Armendariz and blame them for his financial problems.

17. On April 3, 2012 Mr. Armendariz presented David Chowaiki with a doctor's note authorizing a medical leave of absence due to glaucoma, and requested payment in full for the loan. Mr. Armendariz was told that David Chowaiki would call him after discussing the matter with his brother Hilel. On April 16, 2012, while still on medical

leave and still recovering from glaucoma, Armando was terminated<sup>1</sup>. Mrs. Armendariz was terminated at the same time as Mr. Armendariz, and has to date not been paid back the \$100,000.00 loaned to David Chowaiki with interest. David Chowaiki is delinquent in the payment of the debt described above. David has failed to make any proper payments on the debt. Demand has been made for immediate payment of the full principal balance owing of \$100,000.00, plus interest at the rate of twelve percent per annum (12.00%). David Chowaiki has failed and refused to pay this debt.

18. In addition to the above, following the termination of Counterclaimants, to date, David Chowaiki has engaged in a campaign of slander against Mr. Armendariz. Examples of such slanderous statements are set forth below. Each of the statements referenced below are false. David Chowaiki is aware of the false nature of each of the slanderous statements alleged. These statements were intentionally made, and were made with intent to harm. These statements have been damaging to Mr. Armendariz. These statements include, among other things, the following statements:

19. Mr. Jesus de la Trinidad ("Mr. de la Trinidad") will confirm that on November 30, 2012, David Chowaiki, at approximately 4:00 p.m., stated to him that Mr. Armendariz had stolen thousands of hamburgers from El Paso Fuddruckers, and that Mr. Armendariz was a felon.

20. Mr. Armendariz, on December 21, 2012, at approximately 12:00 p.m., encountered Mr. Abraham Alfaro, an employee of David Chowaiki and El Paso Fuddruckers, at a catering event at the Housing Authority of the City of El Paso. Mr. Alfaro was in an El Paso Fuddruckers uniform and arrived in an El Paso Fuddruckers

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<sup>1</sup> Counter-defendant will have a separate suit for the wrongful termination of Armando and Yvette filed against him.

catering van. Mr. Alfaro informed Mr. Armendariz that David Chowaiki, along with his brother Hilel, had stated that Mr. Armendariz was a felon and that he had attorneys who had expunged this felony.

21. Danny Armendariz, a former employee at El Paso Fuadruckers, also referenced in Plaintiffs' Complaint, will verify that Mr. Abraham Alfaro was instructed by David Chowaiki to state that Mr. Armendariz was fired for theft and that Mr. Armendariz was a felon because he had stolen thousands of dollars from Little Ceasar's and that he was still paying them back. This conversation took place on April 17, 2012.

22. Mr. Hector Saenz, an employee for David Chowaiki and El Paso Fuadruckers, will attest that David Chowaiki instructed him to tell employees in the El Paso Fuadruckers that Mr. Armendariz was going to jail for stealing.

23. Ms. Marie Drake, a former employee for El Paso Fuadruckers, will testify that she was bribed by the David Chowaiki and his brother Hilel with the promise of paying her vacation pay to get her to go to the El Paso Fuadruckers main office at 301 Williams St., El Paso, with the help of Mr. Tim Giangrossi. Once there, Ms. Drake was questioned by David Chowaiki, his brother Hilel, and Mr. Gluck about Mr. Armendariz. David Chowaiki tried to make her say things that were not true about how Mr. Armendariz worked. Ms. Drake's response to David Chowaiki, was that she was not going to say something untrue just to get her job back. Ms. Drake will testify as to David Chowaiki's attempts to induce her to make slanderous statements about Mr. Armendariz after his termination.

24. David Chowaiki's statements against Mr. Armendariz after his termination referenced above clearly amount to slander. Other such similar statements in addition to the above have been made as well.



### **CAUSE OF ACTION – BREACH OF CONTRACT**

25. Counterclaimants hereby incorporate by reference the allegations in paragraphs 1 through 24 herein above as fully set forth in this paragraph.

26. Counterclaimants would show that the actions and/or omissions of David Chowaiki described herein constituted breach of contract. David Chowaiki obtained money from Mrs. Armendariz for which David Chowaiki failed to tender payment to Yvette. David Chowaiki's actions constitute breach of contract for which Mrs. Armendariz hereby sues. Therefore, David Chowaiki actions caused the damages to Mrs. Armendariz as described herein allowing Mrs. Armendariz to obtain relief from this Court for the damages established by the trier of fact.

### **CAUSE OF ACTION – DEFAMATION**

27. Counterclaimants hereby incorporate by reference the allegations in paragraphs 1 through 24 herein above as fully set forth in this paragraph.

28. Counterclaimants would show that David Chowaiki has engaged in continuous defamatory conduct against Mr. Armendariz since the date of his termination on April 16, 2012, specifically numerous slanderous statements, including but not limited to those set forth above.

### **ACTUAL LIQUIDATED DAMAGES**

29. Yvette's liquidated damages as agreed to be paid by under the agreement is \$119,467.63, which amount is hereby claimed due. Therefore, Yvette claims liquidated damages totaling \$119,467.63.

### **ADDITIONAL DAMAGES**

30. Counterclaimants have suffered additional damages as a result of David Chowaiki's defamatory conduct.

**ATTORNEY'S FEES**

31. Counterclaimants request all costs and reasonable and necessary attorney's fees incurred by Counterclaimants herein, including all fees and costs of court necessary, as the Court finds within its jurisdiction and deems equitable and just, as provided by (a) Chapter 38 of the Texas Civil Practice and Remedies Code, and (b) common law.

**WHEREFORE, PREMISES CONSIDERED**, Counterclaimants request that David Chowaiki be cited to appear and to answer and that on final trial, Counterclaimants have judgment against David Chowaiki for:

- a) \$100,000.00, plus prejudgment interest;
- b) Damages
- c) Additional damages
- d) Attorney's fees;
- e) Costs of court;
- f) Post-judgment interest; and
- g) Such other and further relief to which it may be justly entitled.

Respectfully submitted,

**FIRTH ♦ JOHNSTON ♦ MARTINEZ**

Attorneys for Defendants  
415 North Mesa, Suite 300  
El Paso, Texas 79901  
Phone: (915) 532-7500  
Fax: (915) 532-7503

/s/ Christopher R. Johnston  
**CHRISTOPHER R. JOHNSTON**  
State Bar No. 10834200

# EXHIBIT 1

CHOWAIKI HOLDINGS LLC

10030

Employee					SSN	Pay Period: 01/16/2011 - 01/31/2011  Pay Date: 07/12/2011
Armando A Armendariz, 11316 Lindenwood Ave., El Paso, TX 79936					***-**-4930	
Earnings and Hours						
Salary	Qty	Rate	Current	YTD Amount		
			3,954.71	43,501.81		
Taxes						
			Current	YTD Amount		
Federal Withholding			-468.00	-5,148.00		
Social Security Employee			-166.10	-1,827.08		
Medicare Employee			-57.35	-630.78		
			-691.45	-7,605.86		
Adjustments to Net Pay						
			Current	YTD Amount		
Health Insurance			-296.41	-3,260.51		
Dental Insurance			-49.28	-246.40		
			-345.69	-3,506.91		
Net Pay			2,917.57	32,389.04		
Memo						
Replacement for GECU ck no. 1525						

Replacement for check no. 15  
(GECU) dated 1/31/11

Replacement for check no. 1525  
(GECU) dated 1/31/11

Chowaiki Holdings, LLC, 301 Williams Street, El Paso, TX 79901 915-532-0561

CHOWAIKI HOLDINGS LLC

1525

Employee					SSN	Status (Fed/State)	Allowances/Extra
Armando A Armendariz, 11316 Lindenwood Ave., El Pase, TX 79936					***-**-4930	Married/(none)	Fed-3/0/TX-0/0
					Pay Period: 01/16/2011 - 01/31/2011		Pay Date: 01/31/2011
Earnings and Hours		Qty	Rate	Current	YTD Amount		
Salary				3,954.71	7,909.42		
Taxes				Current	YTD Amount		
Federal Withholding				-468.00	-936.00		
Social Security Employee				-166.10	-332.20		
Medicare Employee				-57.35	-114.69		
				-691.45	-1,382.89		
Adjustments to Net Pay				Current	YTD Amount		
Health Insurance				-296.41	-592.82		
Dental Insurance				-49.28	-98.56		
				-345.69	-691.38		
Net Pay				2,917.57	5,835.15		

Chowaiki Holdings, LLC, 301 Williams Street, El Paso, TX 79901 915-532-0561



Employee  
Armando A Armendariz, 11316 Lindenwood Ave., El Paso, TX 79936SSN  
\*\*\*-\*\*-4930

Pay Period: 02/16/2011 - 02/18/2011

Pay Date: 08/03/2011

Earnings and Hours	Qty	Rate	Current	YTD Amount
Salary			3,954.71	47,456.52
Taxes			Current	YTD Amount
Federal Withholding			-468.00	-5,616.00
Social Security Employee			-166.10	-1,993.17
Medicare Employee			-57.34	-688.12
			-691.44	-8,297.29
Adjustments to Net Pay			Current	YTD Amount
Health Insurance			-296.41	-3,556.92
Dental Insurance			-49.28	-197.12
			-345.69	-3,754.04
Net Pay			2,917.58	35,405.19

## Memo

Replacement for GECU ck 1546 issued on 2/28/2011

Chowaiki Holdings, LLC, 301 Williams Street, El Paso, TX 79901 915-532-0561

## CHOWAIKI HOLDINGS LLC

1546

104

Employee	SSN	Status (Fed/State)	Allowances/Extra	
Armando A Armendariz, 11316 Lindenwood Ave., El Pase, TX 79936	***-**-4930	Married/(none)	Fed-3/0/TX-0/0	
Pay Period: 02/16/2011 - 02/18/2011			Pay Date: 02/28/2011	
Earnings and Hours	Qty	Rate	Current	YTD Amount
Salary			3,954.71	15,818.84
Taxes			Current	YTD Amount
Federal Withholding			-468.00	-1,872.00
Social Security Employee			-166.10	-664.39
Medicare Employee			-57.34	-229.37
			-691.44	-2,765.76
Adjustments to Net Pay			Current	YTD Amount
Health Insurance			-296.41	-1,185.64
Dental Insurance			-49.28	-197.12
			-345.69	-1,382.76
Net Pay			2,917.58	11,670.32

Chowaiki Holdings, LLC, 301 Williams Street, El Paso, TX 79901 915-532-0561



CHOWAIKI HOLDINGS LLC

10051

Employee				SSN	
Armando A Armendariz, 11316 Lindenwood Ave., El Paso, TX 79936				***-**-4930	
				Pay Period: 03/01/2011 - 03/15/2011	Pay Date: 08/03/2011
Earnings and Hours	Qty	Rate	Current	YTD Amount	
Salary			3,954.71	51,411.23	
Taxes			Current	YTD Amount	
Federal Withholding			-468.00	-6,084.00	
Social Security Employee			-166.10	-2,159.27	
Medicare Employee			-57.35	-745.47	
			-691.45	-8,988.74	
Adjustments to Net Pay			Current	YTD Amount	
Health Insurance			-296.41	-3,853.33	
Dental Insurance			-49.28	-246.40	
			-345.69	-4,099.73	
Net Pay			2,917.57	38,322.76	
Memo					
Repalcement for GECU ck 1556 issued on 3/15/2011					

Chowaiki Holdings, LLC, 301 Williams Street, El Paso, TX 79901 915-532-0561

CHOWAIKI HOLDINGS LLC

1556

Employee				SSN	Status (Fed/State)	Allowances/Extra
Armando A Armendariz, 11316 Lindenwood Ave., El Pase, TX 79936				***-**-4930	Married/(none)	Fed-3/0/TX-0/0
				Pay Period: 03/01/2011 - 03/15/2011	Pay Date: 03/15/2011	
Earnings and Hours	Qty	Rate	Current	YTD Amount		
Salary			3,954.71	19,773.55		
Taxes			Current	YTD Amount		
Federal Withholding			-468.00	-2,340.00		
Social Security Employee			-166.10	-830.49		
Medicare Employee			-57.35	-286.72		
			-691.45	-3,457.21		
Adjustments to Net Pay			Current	YTD Amount		
Health Insurance			-296.41	-1,482.05		
Dental Insurance			-49.28	-246.40		
			-345.69	-1,728.45		
Net Pay			2,917.57	14,587.89		

Chowaiki Holdings, LLC, 301 Williams Street, El Paso, TX 79901 915-532-0561

Employee Armando A Armendariz, 11316 Lindenwood Ave., El Paso, TX 79936  
 SSN \*\*\*-\*\*-4930 Status (Fed/State) Married/(none)  
 Pay Period: 03/16/2011 - 03/31/2011  
 Allowances/Extra Fed-3/0/TX-0/0  
 Pay Date: 08/03/2011

Earnings and Hours	Qty	Rate	Current	YTD Amount
Salary			3,954.71	55,365.94
			Current	YTD Amount
Taxes				
Federal Withholding			-468.00	-6,552.00
Social Security Employee			-166.10	-2,325.37
Medicare Employee			-57.34	-802.81
			-691.44	-9,680.18
			Current	YTD Amount
Adjustments to Net Pay				
Health Insurance			-296.41	-4,149.74
Dental Insurance			-49.28	-295.68
			-345.69	-4,445.42
Net Pay			2,917.58	41,240.34

Memo  
 Replacement for GECU ck 1566 issued on 3/31/2011

Chowaiki Holdings, LLC, 301 Williams Street, El Paso, TX 79901 915-532-0561

## CHOWAIKI HOLDINGS LLC

1566

Employee Armando A Armendariz, 11316 Lindenwood Ave., El Paso, TX 79936  
 SSN \*\*\*-\*\*-4930 Status (Fed/State) Married/(none)  
 Pay Period: 03/16/2011 - 03/31/2011  
 Allowances/Extra Fed-3/0/TX-0/0  
 Pay Date: 03/31/2011

Earnings and Hours	Qty	Rate	Current	YTD Amount
Salary			3,954.71	23,728.26
			Current	YTD Amount
Taxes				
Federal Withholding			-468.00	-2,808.00
Social Security Employee			-166.10	-996.59
Medicare Employee			-57.34	-344.06
			-691.44	-4,148.65
			Current	YTD Amount
Adjustments to Net Pay				
Health Insurance			-296.41	-1,778.46
Dental Insurance			-49.28	-295.68
			-345.69	-2,074.14
Net Pay			2,917.58	17,505.47

Chowaiki Holdings, LLC, 301 Williams Street, El Paso, TX 79901 915-532-0561

## CHOWAIKI HOLDINGS LLC

10071

12-03012-hcm Doc#75-1 Filed 03/05/13 Entered 03/05/13 09:39:36 Exhibit 1-59  
 Employee Armando A Armendariz, 11316 Lindenwood Ave., El Paso, TX 79936  
 SSN \*\*\*-\*\*-4930 Status (Fed/State) Married/(none)  
 Pay Period: 04/01/2011 - 04/15/2011  
 Allowances/Extra Fed-3/0/TX-0/0  
 Pay Date: 09/02/2011

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Earnings and Hours	Qty	Rate	Current	YTD Amount
Salary			3,954.71	63,275.36
			Current	YTD Amount
Taxes				
Federal Withholding			-468.00	-7,488.00
Social Security Employee			-166.09	-2,657.57
Medicare Employee			-57.34	-917.49
			-691.43	-11,063.06
			Current	YTD Amount
Adjustments to Net Pay				
Health Insurance			-296.41	-4,742.56
Dental Insurance			0.00	-295.68
			-296.41	-5,038.24
Net Pay			2,966.87	47,174.06

## Memo

Replacement for GECU ck 1580, issued on 4/15/11.

Chowaiki Holdings, LLC, 301 Williams Street, El Paso, TX 79901 915-532-0561

## CHOWAIKI HOLDINGS LLC

1580

Employee	SSN	Status (Fed/State)	Allowances/Extra	
Armando A Armendariz, 11316 Lindenwood Ave., El Paso, TX 79936	***-**-4930	Married/(none)	Fed-3/0/TX-0/0	
Pay Period: 04/01/2011 - 04/15/2011			Pay Date: 04/15/2011	
Earnings and Hours	Qty	Rate	Current	YTD Amount
Salary			3,954.71	27,682.97
			Current	YTD Amount
Taxes				
Federal Withholding			-468.00	-3,276.00
Social Security Employee			-166.09	-1,162.68
Medicare Employee			-57.34	-401.40
			-691.43	-4,840.08
			Current	YTD Amount
Adjustments to Net Pay				
Health Insurance			-296.41	-2,074.87
Dental Insurance			0.00	-295.68
			-296.41	-2,370.55
Net Pay			2,966.87	20,472.34

Chowaiki Holdings, LLC, 301 Williams Street, El Paso, TX 79901 915-532-0561

12-03012-hcm Doc#75-1 Filed 03/05/13 Entered 03/05/13 00:39:36 Exhibit 1 Pg 20 of 36

Employee  
Armando A Armendariz, 11316 Lindenwood Ave., El Paso, TX 79936

SSN \*\*\*-\*\*-4930  
Status (Fed/State) Married/(none)  
Pay Period: 04/16/2011 - 04/29/2011

Allowances/Extra  
Fed-3/0/TX-0/0  
Pay Date: 09/02/2011

Earnings and Hours	Qty	Rate	Current	YTD Amount
Salary			3,954.71	63,275.36
			Current	YTD Amount
Taxes			-468.00	-7,488.00
Federal Withholding			-166.10	-2,657.57
Social Security Employee			-57.35	-917.49
Medicare Employee			-691.45	-11,063.06
			Current	YTD Amount
Adjustments to Net Pay			-296.41	-4,742.56
Health Insurance			0.00	-295.68
Dental Insurance			-296.41	-5,038.24
Net Pay			2,966.85	47,174.06

## Memo

Replacement for GECU ck 1592, issued on 4/30/11

Chowaiki Holdings, LLC, 301 Williams Street, El Paso, TX 79901 915-532-0561

## CHOWAIKI HOLDINGS LLC

1592

Employee  
Armando A Armendariz, 11316 Lindenwood Ave., El Paso, TX 79936

SSN \*\*\*-\*\*-4930  
Status (Fed/State) Married/(none)  
Pay Period: 04/16/2011 - 04/29/2011

Allowances/Extra  
Fed-3/0/TX-0/0  
Pay Date: 04/30/2011

Earnings and Hours	Qty	Rate	Current	YTD Amount
Salary			3,954.71	31,637.68
			Current	YTD Amount
Taxes			-468.00	-3,744.00
Federal Withholding			-166.10	-1,328.78
Social Security Employee			-57.35	-458.75
Medicare Employee			-691.45	-5,531.53
			Current	YTD Amount
Adjustments to Net Pay			-296.41	-2,371.28
Health Insurance			0.00	-295.68
Dental Insurance			-296.41	-2,666.96
Net Pay			2,966.85	23,439.19

Chowaiki Holdings, LLC, 301 Williams Street, El Paso, TX 79901 915-532-0561

Employee				SSN	Status (Fed/State)	Allowances/Extra
Armando A Armendariz, 11316 Lindenwood Ave., El Paso, TX 79936				***-**-4930	Married/(none)	Fed-3/0/TX-0/0
				Pay Period: 04/30/2011 - 05/15/2011		Pay Date: 09/02/2011
Earnings and Hours	Qty	Rate	Current	YTD Amount		
Salary			3,954.71	63,275.36		
Taxes			Current	YTD Amount		
Federal Withholding			-468.00	-7,488.00		
Social Security Employee			-166.10	-2,657.57		
Medicare Employee			-57.34	-917.49		
			-691.44	-11,063.06		
Adjustments to Net Pay			Current	YTD Amount		
Health Insurance			-296.41	-4,742.56		
Dental Insurance			0.00	-295.68		
			-296.41	-5,038.24		
Net Pay			2,966.86	47,174.06		
Memo						
Replacement for GECU ck 1598, issued on 5/15/11						

Chowaiki Holdings, LLC, 301 Williams Street, El Paso, TX 79901 915-532-0561

CHOWAIKI HOLDINGS LLC

1598

Employee					SSN	Status (Fed/State)	Allowances/Extra
Armando A Armendariz, 11316 Lindenwood Ave., El Paso, TX 79936					***-**-4930	Married/(none)	Fed-3/0/TX-0/0
					Pay Period: 04/30/2011 - 05/15/2011		Pay Date: 05/15/2011
Earnings and Hours		Qty	Rate	Current	YTD Amount		
Salary				3,954.71	35,592.39		
Taxes				Current	YTD Amount		
Federal Withholding				-468.00	-4,212.00		
Social Security Employee				-166.10	-1,494.88		
Medicare Employee				-57.34	-516.09		
				-691.44	-6,222.97		
Adjustments to Net Pay				Current	YTD Amount		
Health Insurance				-296.41	-2,667.69		
Dental Insurance				0.00	-295.68		
				-296.41	-2,963.37		
Net Pay				2,966.86	26,406.05		

Chowaiki Holdings, LLC, 301 Williams Street, El Paso, TX 79901 915-532-0561

## **EXHIBIT 2**



GECU

312081089

## Share Draft

Sequence	Capture Date	Member No.	Draft No.	Draft Amt.
98071734	03292010	88000010	714810	50000.00

THIS DOCUMENT HAS A PRISMATIC RANTOGRAPH, MICROPRINTING AND AN ARTIFICIAL WATERMARK

**GECU**  
WE'RE WITH YOU

825689

VALID FOR ONE YEAR FROM DATE OF ISSUE:  
March 29, 2010

No. 714810

A 90 DAY WAITING PERIOD AND AN  
INDEMNIFYING BOND MAY BE REQUIRED  
TO REPLACE THIS CHECK.

TO THE ORDER OF **DAVID CHOWATKI** \*\*\*\*\*

PAY **\$50,000.00**

\*\*\*\*\*FIFTY THOUSAND and 00/100\*\*\*\*\*

RE: **WETTING HREHDRAIZ**

**CASHIER'S CHECK**  
**GECU**  
P.O. BOX 20998 • EL PASO, TEXAS 79908 88-8108 3120

By *[Signature]* AUTHORIZED SIGNATURE

By *[Signature]* AUTHORIZED SIGNATURE

TWO SIGNATURES REQUIRED FOR AMOUNTS OVER \$2000.00

714810 312081089 88000010

**ENDORSED AS ORDER**  
**X DAVID CHOWATKI**  
**82568910**

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE.  
RESERVED FOR FINANCIAL INSTITUTION USE

3/29/2010  
2696  
0004

**FEDERAL RESERVE BOARD OF GOVERNORS REG. CO.**

[Close]

**GECU**  
P.O. BOX 20998  
EL PASO, TEXAS 79908

*[Signature]*

# **EXHIBIT 3**

View Image


Page

evolve Federal Credit Union

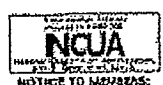
312

## Share Draft - Viewing Image

Sequence	Capture Date	Member No.	Draft No.	Draft Amt.
73714862	06102010	68500311902567	634472	22777.00



**El Paso Employees**  
FEDERAL CREDIT UNION  
8840 GAZELLE, EL PASO, TX 79928-5931  
(915) 553-5555



THE PURCHASE OF ANY MEMBER'S SHARE  
WILL BE REPAID TO THE MEMBER IN THE  
EVENT OF THE CREDIT UNION'S LIQUIDATION

01 0000634472

DATE  
06/07/10

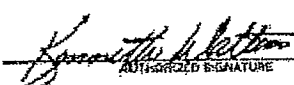
\$22,777.00

PAY \*\* Twenty-Two Thousand Seven Hundred Seventy-Seven and 00/100 DOLLARS \*\*

TO THE ORDER OF: DAVID CHOWAIKI

REMITTED BY: YVETTE ARMENDARIZ

**CASHIER'S CHECK**  
VOID AFTER SIXTY DAYS



AUTHORIZED SIGNATURE

⑈0634472⑈ ⑆312061005488500311902567⑈

\*FEDERAL RESERVE BOARD OF GOVERNMENTS REG. CC

6/9/2010  
3:098  
0006

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PRESERVED FOR NATIONAL INSTITUTIONS

82568910

Close

**EXHIBIT 4**

GECU

312081089

## Share Draft - Viewing Image

Sequence	Capture Date	Member No.	Draft No.	Draft Amt.
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THIS DOCUMENT HAS A PRISMATIC PANTOGRAPH, MICROPRINTING AND AN ARTIFICIAL WATERMARK.

**GECU**  
WE'RE WITH YOU.

VALID FOR ONE YEAR FROM DATE OF ISSUE  
June 07, 2010

No. 726540

A 90 DAY WAITING PERIOD AND AN INDEMNIFYING BOND MAY BE REQUIRED TO REPLACE THIS CHECK.

TO THE ORDER OF \*\*\*\*\*DAVID CHOWAIKI\*\*\*\*\*

PAY: \$27,223.00

\*\*\*TWENTY SEVEN THOUSAND TWO HUNDRED TWENTY THREE and 00/100\*\*\*\*\*

RE: YVETTE GUERRERO ARMENDARIZ

**CASHIER'S CHECK**

**GECU**  
P.O. BOX 20998 • EL PASO, TEXAS 79998 88-8108 3120

By S Domun AP  
AUTHORIZED SIGNATURE

By Crystal Long AP  
AUTHORIZED SIGNATURE

TWO SIGNATURES REQUIRED FOR AMOUNTS OVER \$2000.00

⑈ 7 2 6 5 4 0 ⑈ ⑈ 3 1 2 0 8 1 0 8 9 ⑈ 8 8 0 0 0 0 1 0 ⑈

ENDORSED AS DRAWN

X David Chowai  
82568910

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6/9/2010  
3098  
0006

**FEDERAL RESERVE BOARD OF GOVERNORS** F.R.B. CC

The security features listed below, as well as those not listed, extend industry guidelines.

Security Features: Results of document inspection:  
Security Screen Absence of Color Security Features  
Micro Print Line Small type in left line appears "wavy" lines

Close

## **Exhibit 5**



<b>EL PASO DHC ENTERPRISES LLC</b> 301 WILLIAMS ST EL PASO, TEXAS 79901 (915) 532-0561		<b>CHASE</b> JPMorgan Chase Bank, N.A. www.Chase.com 32-61-1110	
PAY TO THE ORDER OF Armando A. Armendariz		3/30/2012	
Fourteen Thousand Three Hundred Twenty-One and 92/100*****		\$**14,321.92	
Armando A. Armendariz		DOLLARS	
MEMO Interest to Date@7.5%/annum-Loan to Fuddruckers		AUTHORIZED SIGNATURE	
⑈0⑆0⑆2⑆5⑈ ⑆111000614⑆		936476225⑈	

10216

Security features. Details on back.

**DIAMOND LAW**

Attorneys for Defendants  
3800 North Mesa Street  
El Paso, Texas 79902  
Phone: (915) 532-3327  
Fax: (915) 532-3355

/s/ Sidney J. Diamond  
SIDNEY J. DIAMOND  
State Bar No. 5803000

**CERTIFICATE OF SERVICE**

I, Sidney J. Diamond, do hereby certify that on March 4, 2013, a true and correct copy of the foregoing Amended Counterclaim of Defendants Armando Armendariz and Yvette Armendariz, was served via electronic means as listed on the Court's ECF noticing system or by depositing the same in the United States Mail, properly addressed and postage prepaid, to the following parties:

**THE DEBTOR:**

DHC Realty, LLC  
301 Williams  
El Paso, TX 79901

**THE DEBTOR'S ATTORNEY:**

Corey W. Haugland  
P.O. Box 1770  
El Paso, TX 79949-1770